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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/771,883

02/04/2004

Peter Tews

COH-15303

3749

40854 7590 12/19/2006
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EXAMINER

KASTLER, SCOTT R

ART UNIT

PAPER NUMBER

1742

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

12/19/2006

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/771,883

Applicant(s)

TEWS, PETER

Examiner

Scott Kastler

Art Unit

1742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,7-12,14-21 and 50-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-4,7,8,10-12,14-18,20,21,50-54,56-65 and 67-72 is/are rejected.
- 7) ☒ Claim(s) 9,19,55 and 66 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/9/06.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title; if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 7, 8, 10-12, 14-18, 20, 21 and 50-54, 56-65 and 67-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese'999. Japanese'999 teaches a platinum cobalt alloy also including copper and optionally one or more "property enhancing additives" including indium with ranges which overlap those instantly claimed (see claims 4-6 of JP'999), where the alloy article is manufactured by blending or combining and melting the components and then casting, thereby showing all aspects of the above claims except the specific composition ranges instantly recited, although as stated above these ranges are encompassed by the broader ranges recited by JP'999. It is noted that JP'999 meets the broad requirement of an "ornamental article" (claims 18-21 and 62-72) since any item could be considered "ornamental". Further it is noted that instant claims 11, 57 and 68 do not actually require the presence of the recited optional elements, but only the ability of these elements to be used in place of copper (the term "may be" allows for the elements not to be present). It has been well settled that where the prior art discloses a broad range of values for a composition, absent any demonstrated new or unexpected results arising therefrom, motivation to select any particular range or value within the broadly recited range of the prior art would have been a modification *prima facie* obvious to one of ordinary skill in the art at the time the invention was made. See MPEP 2144.05. In the instant case absent any properly presented new or unexpected results arising therefrom, motivation to

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select any equally useful value or range for the platinum, cobalt, copper and any optional property enhancing additive from within the broader ranges described by JP'999, would have been a modification obvious to one of ordinary skill in the art at the time the invention was made. It is further noted that since the alloys described by JP'999 encompass the alloy ranges instantly claimed and the manufacturing steps are substantially the same, the physical properties recited in instant dependent claims 12, 14, 15, 17, 58-61 and 69-72 would reasonably be expected to inherently also occur in the alloys of JP'999.

Allowable Subject Matter

Claims 9, 19, 55 and 66 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The above claims would be allowable over the cited and applied prior art at least because none of the cited or applied prior art shows or fairly suggests either the inclusion of palladium, iridium or ruthenium in the claimed platinum alloy (JP'999 recites the use of platinum and palladium in the alternative only and never mentions the use of either of ruthenium or iridium) and none of the cited or applied prior art teaches the use of the instantly claimed alloy in the form of a necklace, earring, watch band or watch body.

Response to Arguments

Applicant's arguments with respect to claims 1-4, 7-12, 14-21 and 50-72 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

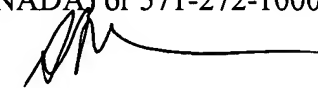
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (571) 272-1243. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Scott Kastler
Primary Examiner
Art Unit 1742

sk